PART IV

Section 2-C—(ii)

STATUTORY ORDERS ISSUED BY THE STATE GOVERNMENT UNDER THE CENTRAL ACTS AND STATE ACTS.

GOVERNMENT OF MYSORE

FOOD, CIVIL SUPPLIES AND LABOUR DEPARTMENT (LABOUR)

Labour Dispute.—Industrial Dispute between the Workmen and the management of Mysore Chemicals and Fertilizers, Ltd., Belagola, Mysore.

Award of the Industrial Tribunal, Bangalore, published.

Read the following papers.—

(i) Letter No. I.T. No. 859-60/67-68, dated 28th August 1967 from Shri A. Panchakshariah, Presiding Officer, Industrial Tribunal, Bangalore.

BEFORE THE INDUSTRIAL TRIBUNAL IN MYSORE, BANGALORE.

Dated 28th August 1967.

PRESENT :

Sri A. Panchakshariah, B.A. (HONS.) LL.B., .. Presiding Officer.

I.D. No. 153 *of* 1966.

Workers of Mysore Chemicals and Fertilizers, Ltd., Belagola, Mysore .. .. *First Party.*

Vs.

Management of Mysore Chemicals and Fertilizers, Ltd., Belagola, Mysore .. .. *Second Party.*

APPEARANCES.

For I (*a*) Party.—Sri G. K. Ramaswamy, Secretary, Mysore Chemicals and Fertilizers Staff Association, Belagola and Sri A. Venkateshiah, Advocate, Mysore.

For I (*b*) Party.—Sri A. Subramanya Iyer, M.C.F. Labour Association, Belagola, Mysore.

For II Party.—Sri M. N. Mahanta Devaru, Advocate, Mysore.

REFERENCE.

G.O. No. LMA 659 LLD 65, Bangalore, dated 24th August 1966.

AWARD

In this case two points have been referred for adjudication by this Tribunal. One is with regard to House Rent Allowance at the rate of 10 per cent of the Basic Salary or Rs. 10 whichever is higher, with effect from 1st April 1965. The Second point of dispute is in regard to minimum bonus for the year 1963-64. Both these points have been raised by the Staff Members of the M.C.F. Ltd., Belagola. The Staff Association of the M. C. F. raised these two demands with the Second Party and conciliation proceedings were held on 18th October 1965 and 13th November 1965. Consequent on the failure of the conciliation proceedings the Assistant Labour Commissioner and Conciliation Officer, Mysore Division, sent his report to the Government and the Government in turn have referred this dispute under Section 10(1) (*d*) of the Industrial Disputes Act, 1947, by their Order No. LMA 659 LLD 65, dated 24th August 1966. The same was registered as I.D. No. 153 of 1966 and notices were issued to the parties to put in their pleadings. The First Party is known as the M.C.F. Staff Association, Mysore, represented by its President Sri A. Venkateshiah, Advocate, Mysore. The Secretary of the First Party Association is one Sri G. K. Ramaswamy and he has filed a Claim statement on behalf of the First Party. According to the case as set out by the First Party, the M.C.F. Ltd., has been in existence since 1937 and it went into production in 1939. The Working Capital of the Second Party is about a crore of rupees at the present moment. The company has about 180 daily rated workmen and 140 monthly rated workmen including Officers. For these 320 workers only about 100 workmen have been provided with quarters at Belagola where the factory is situated. The Office of the factory is at Mysore which is about 4 to 5 miles from Belagola. Out of the total of 320 workers, 32 are working at the Registered Office at Mysore including the Secretary. Both the Factory Manager and the Secretary are provided with quarters. The Company is managed by a Board of Directors whose Chairman is a Government Officer and two other directors are nominated by the Government. Six other directors are elected. The Secretary of this company is also a lent Officer by the Government.

2. In view of the fact that the Company has not provided quarters to all its workmen, the I Party claims House Rent Allowance at 10 per cent of the basic salary or Rs. 10 whichever is higher. With regard to the demand for Bonus, the I Party workmen contend that the Company is bound to pay the minimum bonus for the years in question. The I Party workmen therefore pray that an award be passed granting House Rent Allowance to the members of the Staff

Association at the rate of 10 per cent of basic salary or Rs. 10 whichever is higher with effect from 1st April 1965, and also to grant minimum bonus for the year 1963-64.

3. The II Party is represented by the Factory Manager Sri Krishna Murthy. In reply to the Claim Statement, the II Party has said that the company has employed 179 workers on daily rate while 105 are monthly rated. Thirty-five workers are at the Registered Office at Mysore. In regard to providing quarters to its workers, the Company has built 87 quarters at Belagola at the Factory colony and in addition, 50 tenements have been constructed by the Mysore Housing Board on behalf of the II Party. The rent charged is only $6\frac{1}{4}$ per cent of the basic salary of the employee. The factory is situated near Belogola village and a large number of the employees come from the surrounding villages where they have houses and lands. The 137 quarters that are available at the disposal of the company are sufficient and several of the house, *viz.*, as many as 35 to 40 are remaining vacant. There is no keen demand from the employees for houses as the tendency of the employees is more for their eagerness to remain in Mysore City which is close by. The company has not so far rejected the request of any of the employees for allotment of the living quarters at Belagola. In view of the fact that the company has provided sufficient housing accommodation to its employees, the demand for House Rent Allowance is not justified. By an amendment, the company has amended its counter statement on 7th July 1967 according to which it is contended that the company is working under a loss for the past 3 years and therefore the management is not in a position to bear this burden of House Rent Allowance. With regard to the demand for bonus for 1963-64 the Company contended that in view of the Supreme Court's decision in Civil Appeal No. 186/66, dated 5th August 1966 in Jalan Trading Co. (P) Ltd., *vs.* Mill Mazdoor Union and others, reported in 1966 (I) LLJ page 11, the demand for bonus is not tenable.

4. As the case was going on, one more Union stepped in which is represented by Sri A. Subramanya Iyer, President of the M.C.F. Labour Association. This Union adopted the claim statement and the reply statement of the M.C.F. Staff Association.

5. A replay was filed on 6th March 1967 to the Counter Statement of the II Party reiterating the allegations in the claim statement. The fact that 137 quarters are at the disposal of the factory is admitted by the I Party in their reply statement. The I Party contends that only 118 quarters are available while the remaining have been occupied by the Guest Houses, Factory Manager's Quarters, M.C.F. Club buildings and so on. It is contended by the I Party that these are all one room tenements. The I Party workmen have

also complained that drinking water facilities are not available in these quarters. The II Party has not provided other facilities like transport of children of the workers to go to schools and colleges at Mysore. The employees at the registered Office at Mysore are not at all provided with any quarters. This in brief, is the case put forward by the I parties.

6. On the basis of these pleadings two Issues had been framed on 14th March 1967 and later on, on the amended pleadings, an additional issue with regard to the financial capacity of the II Party was framed on 22nd July 1967. In the course of the trial, the I Party as also the M.C.F. Labour Association gave up the claim for bonus for 1963-64 on 6th July 1967. So much so the trial proceeded with regard to point of dispute No. 1. In support of their contentions the I Party examined the Secretary Sri G. K. Ramaswamy and closed the case, while the M.C.F. Labour Association examined Sri A. Subramanya Iyer, President of the Association. The II Party examined two witnesses, *viz.*, the Works Manager Sri Gopala Rao and the Chief Accountant of the factory. The II Party has also produced the Balance Sheets for the years 1963-64, 1964-65 and 1965-66 and they have been marked as Exhibits M3 ,M4 and M5. Most of the facts are admitted by both the parties. The existence of 137 quarters and the occupation of these quarters by as many as 100 workmen is admitted and it is proved beyond doubt by the evidence of the factory manager. Further, the factory Manager has also sworn to the fact that as many as 37 to 40 quarters are vacant even now and none of the workers are coming forward to occupy these quarters. This fact is also admitted in a way by both Sri G. K. Ramaswamy and Sri Subramanya Iyer. So far as Sri Subramanya Iyer is concerned, he admits that he has been given a quarter and he has been occupying it ever since 1946. It is admitted by Sri G. K. Ramaswamy that the sulphuric plant which has gone into production since the last two years, is situated nearly a furlong away from these quarters. When that is so, the complaint of the workmen that owing to the settling of the sulphuric stack gas, these quarters are rendered useless, cannot be accepted. That these quarters provide a fair amount of accommodation is also clear from the evidence of Sri G. K. Ramaswamy. His evidence is that these quarters are one room tenements, *i.e.*, each room consists of one living room, one verandah, one kitchen, bath room and a lavatory. Surely in these days one cannot say that the accommodation provided by these quarters is insufficient. The desire of these workmen or members of the Staff, to reside at Mysore which is close by appeares to be patent. They do not want to occupy these quarters and remain at the workspot, *i.e.*, at Belagola. Probably all of them want to remain at Mysore and claim house rent allowance rendering all these quarters useless. When Housing accommodation is provided,

I do not think the employees of any factory are entitled to House Rent Allowance also. Sri A. Venkateshiah argued for the first time without laying any foundation, that the definition of wages comes to the help of the workmen. He took me through the definition of 'wages' as defined under Sec. 2(rr). It would be worthwhile to quote the definition itself. Section 2(rr) defines wages as follows :—

> " Wages mean all remuneration capable of being expressed in terms of money, which would, if the terms of employment express or implied, were fulfilled be payable to workman in respect of his employment or work done in such employment and it includes (1) such allowance including D.A. as the workmen for first time being entitled to (2) the value of any housing accommodation or of supply of light and water, medical attendance or other amenity or any service or of any concessional supply of food grains or of any other articles, (3) any travelling concession, etc."

Sri A. Venkateshaiah cited a decision in A.I.R. 1958 Supreme Court 578 and A.I.R. 1959 S.C. 676. He went on arguing in extenso without realising that he had not contended that the wages paid to the workmen did not come up to the living standard. It is nowhere stated, either in the claim statement or in the reply of the I Party that the wages given to the workmen do not cover the living wage. Nor is there any mention in the evidence of the Secretary Sri G. K. Ramaswamy that the wages paid are such that they do not include house rent allowance. On the other hand the evidence of Sri Gopala Rao, Factory Manager, is to the effect that the wages of all the employees were revised as late as 1962 and when they were revised keeping in view of the housing accommodation also. Section 2(rr) nowhere says that separate House Rent Allowance should be given. If the wages paid are such as to include the House Rent Allowance also, that is sufficient compliance with the definition of Wages. Therefore the two authorities cited by Sri A. Venkateshaiah are not applicable to the facts of this case. No materials are placed to show that wages paid to the members of the staff are such that will not cover the housing accommodation also. There is not a whisper either in the pleadings or in the evidence of the Secretary to establish this position. In the absence of any such material one cannot go on surmising things which are not in existence. So much so the contention of Sri A. Venkateshiah cannot be accepted.

7. With regard to the second contentions, *viz.*, the financial capacity of the II Party to bear this additional burden, the II Party has examined its Accountant and has produced Exhibits M3, M4, and M5 Balance Sheets for the year 1963-64, 1964-65 and 1965-66. The capacity to bear such additional burden will have to be deter-

mined on the industry-*cum*-region basis. Admittedly there are a few factories in Mysore City, *viz.*, the Java Cycle Company which is of a recent origin and Krishnarajendra Textile Mill which is a fairly well established factory. These factories are not paying any House Rent Allowance to their employees whether they are Staff Members or merely workmen doing manual labour. Similarly the employees of Java Cycle Company are not paid any House Rent Allowance. At any rate there is no evidence on the side of the I Party to show that the employees of these two factories are paid any house rent allowance. Sri G. K. Ramaswamy, in his evidence admits that the employees of the Krishnarajendra Mills, Mysore, are not paid any House Rent Allowance. So far as the employees of the Java Cycle Company are concerned, he is not aware if the employees are paid any House Rent Allowance, or not. It is the bounden duty of the I Party to have put in evidence to show that the employees of the Krishnarajendra Mills or those of the Java Cycle Co., are being paid House Rent Allowance. No such evidence is admittedly put in. Nearby there is no other industry which is on the model of the II Party. In the absence of a similar factory nearby, the I Party could have relied upon the conditions prevailing in the Krishnarajendra Mills and the Java Cycle Company. This has not been even attempted. The tendency of the workmen appears to be to reside in Mysore, and in fact, a few of them are residing in Mysore and for their sake the factory has arranged Vans to take them to the workspot daily and bring them back. This fact is admitted by Sri G. K. Ramaswamy. Even the children of the employees residing at Belagola are allowed to travel in these vans to go to schools and Colleges from Belagola to Mysore. On this account there has been no complaint whatsoever to the effect that the workers are not taken to the workspot in time, and this fact is admitted by Sri G. K. Ramaswamy. A funny reason is given by Sri G. K. Ramaswamy as to why some of the workers are residing at Mysore. The reason is that some workers have complained to him that because they are not provided with quarters at Belagola, they are residing at Mysore. This cannot be true at all. The evidence of the Factory Manager goes to show that as many as 35 to 40 quarters are vacant and the workers are not forthcoming to occupy them because they want to reside at Mysore. Even then the management has been good enough to provide sufficient means of conveyance to these workers residing at Mysroe to go to Belagola and work. Ex. M1 is produced to show that in the year 1960 nearly 27 persons who are offered quarters, refused to occupy them. Consequently the conveyance allowance which was given to them was cancelled. This is a proof positive to show that the desire of the workers is more to get a few chips by way of House Rent Allowance than to occupy the quarters themselves. This can never be justified.

8. Now coming to the financial capacity of the II Party to bear the additional burden, the Chief Accountant has been examined by the II Party in addition to the evidence of the Factory Manager. Sri T. A. Lakshminarasimha Murthy is examined by the II Party. His evidence is that he has been Chief Accountant in the II Party factory from July 1963. Exhibits M3, M4 and M5 are the Balance Sheets for the years 1963-64, 1964-65 and 1965-66. For the year ending with 31st March 1964, as can be seen from Ex. M3, there was only a nominal profit of Rs. 32,741 and after deducting taxation the net profit came to only Rs. 12,822. This is considered to be a big profit in a company which has invested nearly a crore of rupees. So is the argument of Sri A. Venkateshiah. For the year ending with 31st March 1965 the witness says that there was a loss of Rs. 12,61,634 and for the year ending 31st March 1966, there is a loss of Rs. 7,71,703. Further this witness says that these accounts have been audited by the Chartered Accountants and have been accepted by the General Body of the Share-holders of which Sri A. Venkateshaiah said, he is one. The accounting given here is not challanged. Being documents scrutinised by Chartered Accountants, they are certainly entitled to some weight. It is thus clear that both for the years 1965 and 1966 there has been a big loss to the II Party. The wants of the workmen must be weighed with the ability of the II Party to pay. I have pointed out above that Sri A. Venkateshiah has failed to establish that the wages paid to the workmen fall below the living wage and therefore the argument advanced by him, *viz.*, the theory that an institution which cannot pay for the minimum requirements of its workmen has no right to exist, cannot be unqualifiedly accepted.

9. Having regard to the evidence of the Factory Manager and the Chief Accountant and considering Exhibits M3, M4 and M5, I am of the opinion that the II Party is not in a position to meet the additional burden to any extent. The additional burden with regard to these 35 Staff Members, if the House Rent Allowance is granted at the rate claimed by them, would come to nearly Rs. 25,000 per year and it does not stop at that. If the staff members are given House Rent Allowance, the remaining workmen who do not want to occupy the quarters, will also claim similar allowance and no discrimination can be made in these matters in the industrial undertaking. Admittedly the II Party has done its very best to put up nearly 140 quarters to its workmen and is doing it best to help those workmen who are residing at Mysore in the matter of conveyance to them and to their children. In any view of the case the II Party's financial position is such that it has no capacity to bear this additional burden.

10. In the result the reference is rejected. Under the circumstances, each party will bear its own costs.

A. PANCHAKSHARIAH,

Presiding Officer,
Industrial Tribunal.

28th August 1967.

ORDER

Bangalore, dated the 31*st August* 1967.

S.O. **1795** Whereas by State Government Order No. LMA 659 LLD 65, dated 24th August 1966 the Industrial Dispute between the Workmen and the Management of Mysore Chemicals and Fertilizers, Ltd., Belagola, Mysore, was referrend to the Industrial Tribunal, Bangalore for adjudication.

AND WHEREAS the Industrial Tribunal, Bangalore has submitted to the State Government its award in respect of the said Industrial Dispute.

NOW, THEREFORE, in exercise of the powers conferred by Section 17 of the Industrial Dispute Act, 1947 (Central Act XIV of 1947), the Government of Mysore are pleased to direct the publication of the said award as above, in the *Mysore Gazette*.

[No. LMA 659 LLD 65.]

By Order and in the name of the Governor of Mysore,

G. G. PUROHIT,
Under Secretary to Government,
Food, Civil Supplies and Labour Department.